

DEC 31 2007

FACSIMILE TRANSMISSION

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re: Appeal Brief

Application No. 10/705,555

Applicant: Barta

Title: Installation and Removal of Software Components Across Enterprise Resources

Examiner: Wei

Art Group: 2192

No.: RSW920030177US1

Attached are the following:

- a. Appeal Brief;
- b. Fee Transmittal; and
- c. Transmittal Page

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TRANSMITTAL FORM (to be used for all correspondence after initial filing)		Application Number	10/705,555	RECEIVED
		Filing Date	11/10/2003	CENTRAL FAX CENTER
		First Named Inventor	Barta	DEC 31 2007
		Art Unit	2192	
		Examiner Name	Wei	
Total Number of Pages in This Submission		Attorney Docket Number	RSW920030177US1	

ENCLOSURES (Check all that apply)			
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<div style="border: 1px solid black; padding: 2px; display: inline-block;">Remarks</div> Appeal Brief			

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	Gordon & Rees, LLP		
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Date	December 30, 2007	Reg. No.	37,720

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Effective on 12/08/2004. Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818). FEE TRANSMITTAL For FY 2008		Complete If Known	
		Application Number	10/705,555
		Filing Date	11/10/2003
		First Named Inventor	Barta
		Examiner Name	Wei
<input type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27		Art Unit	2192
TOTAL AMOUNT OF PAYMENT (\$)		510.00	
		Attorney Docket No. RSW920030177US1	

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FEE CALCULATION**1. BASIC FILING, SEARCH, AND EXAMINATION FEES**

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity	Fee (\$)	Small Entity	Fee (\$)	Small Entity	
Utility	310	155	510	255	210	105	
Design	210	105	100	50	130	65	
Plant	210	105	310	155	160	80	
Reissue	310	155	510	255	620	310	
Provisional	210	105	0	0	0	0	

2. EXCESS CLAIM FEESFee Description

Each claim over 20 (including Reissues)

Small EntityFee (\$)

50 25

Each independent claim over 3 (including Reissues)

210 105

Multiple dependent claims

370 185

Total Claims	Extra Claims	Fee (\$)	Fee Paid (\$)
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Multiple Dependent ClaimsFee (\$) Fee Paid (\$)

- 20 or HP = _____ x _____ = _____

HP = highest number of total claims paid for, if greater than 20.

Indep. Claims	Extra Claims	Fee (\$)	Fee Paid (\$)
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- 3 or HP = _____ x _____ = _____

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3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$260 (\$130 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof	Fee (\$)	Fee Paid (\$)
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- 100 = _____ / 50 = _____ (round up to a whole number) x _____ = _____

4. OTHER FEE(S)

Non-English Specification. \$130 fee (no small entity discount)

Other (e.g., late filing surcharge): Filing a Brief in Support of an Appeal

Fee Paid (\$)

\$510.00

SUBMITTED BY

Signature	<i>Rudolf O. Siegesmund</i>	Registration No. (Attorney/Agent) 37,720	Telephone 214-231-4703
Name (Print/Type)	Rudolf O. Siegesmund	Date December 30, 2007	

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IN THE UNITED STATES PATENT & TRADEMARK OFFICE

In re Barta et al.

-) Serial No. 10/705,555
-) Docket No. RSW920030177US1
-) Art Unit 2192
-) Confirmation No. 1046
-) Examiner Wei

Filed: 11/10/2003

APPEAL BRIEF

December 31, 2007

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The examiner of the pending application identified above finally rejected the applicant's claims set forth herein, and the appellant timely submitted a Notice of Appeal to the Board of Patent Appeals and Interferences. The Notice of Appeal was submitted on October 10, 2007 along with a Pre-Appeal Brief Request for Review Statement. On November 30, 2007 the Notice of Panel Decision from Pre-Appeal Brief Review was mailed. Applicant filed this Appeal Brief in accordance with the Notice of Panel Decision from Pre-Appeal Brief Review.

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I. REAL PARTY INTEREST

The real party in interest in the present application is International Business Machines Corporation.

II. RELATED APPEALS AND INTERFERENCES

Neither the applicants, the applicant's legal representative, nor the assignee has any knowledge of any application, patent, appeal, interference, or judicial proceeding which may be related to, directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

III. STATUS OF THE CLAIMS

The application included 33 claims. Claims 3, 14, and 25 have been canceled. Claims 1-2, 4-13, 15-24, and 26-33 are pending. No claims have been allowed. The examiner has rejected all pending claims. Claims 1-2, 4-13, 15-24, and 26-33 are appealed.

Claim	Type	Depends from	Status	Appealed
1	Independent		Rejected	Yes
2	Dependent	1	Rejected	Yes
3			Cancelled	No
4	Dependent	1	Rejected	Yes
5	Dependent	1	Rejected	Yes
6	Dependent	5	Rejected	Yes
7	Dependent	1	Rejected	Yes

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8	Dependent	1	Rejected	Yes
9	Dependent	1	Rejected	Yes
10	Dependent	9	Rejected	Yes
11	Dependent	9	Rejected	Yes
12	Independent		Rejected	Yes
13	Dependent	12	Rejected	Yes
14			Cancelled	No
15	Dependent	12	Rejected	Yes
16	Dependent	12	Rejected	Yes
17	Dependent	16	Rejected	Yes
18	Dependent	12	Rejected	Yes
19	Dependent	12	Rejected	Yes
20	Dependent	12	Rejected	Yes
21	Dependent	20	Rejected	Yes
22	Dependent	20	Rejected	Yes
23	Independent		Rejected	Yes
24	Dependent	23	Rejected	Yes
25			Cancelled	No
26	Dependent	23	Rejected	Yes
27	Dependent	23	Rejected	Yes
28	Dependent	27	Rejected	Yes
29	Dependent	23	Rejected	Yes
30	Dependent	23	Rejected	Yes
31	Dependent	23	Rejected	Yes

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32	Dependent	31	Rejected	Yes
33	Dependent	31	Rejected	Yes

IV. STATUS OF THE AMENDMENTS

Claims 1, 4, 12, 15, 23 and 26 were amended on May 21, 2007. The amendments have been entered. There are no pending amendment.

V. SUMMARY OF THE CLAIMED SUBJECT MATTER

Claim 1

Claim 1 recites a method for installing software components, comprising: initiating installation of components ([12], line 3); selecting a level of detail to be reported regarding the status of components being installed ([12], line 4); grouping each component with other components having the same number of dependent components, those components having more dependencies being in a higher group and those components having fewer dependencies being in a lower group ([38], lines 5-9); generating a report regarding status installation progress of the components being installed ([12], lines 4-5); displaying that portion of the report identifying the components at the selected level of detail and their corresponding installation progress status ([12], line 5, [40], lines 1-3); and recording a user's selected preference for a level of granularity in a log, and when the user participates in a subsequent installation, using the level in the log as a default level ([42], lines 1-5).

Claim 12

Claim 12 recites a software component installation system, comprising: means for initiating installation of components ([12], line 3); means for selecting a level of detail to be reported regarding the status of components being installed ([12], line 4); means for grouping each component with other components having substantially the same number of dependent

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components, those components having more dependencies being in a higher group and those components having fewer dependencies being in a lower group ([38], lines 5-9); means for generating a report regarding status installation progress of the components being installed ([12], lines 4-5); means for displaying that portion of the report identifying the components at the selected level of detail and their corresponding installation progress status ([12], line 5, [40], lines 1-3); and means for recording a user's selected preference for a level of granularity in a log, and when the user participates in a subsequent installation, using the level in the log as a default level ([42], lines 1-5).

Claim 23

Claim 23 recites "a computer program product of a computer readable medium usable with a programmable computer, the computer program product having computer-readable code embodied therein for installing software components, the computer-readable code comprising instructions for: initiating installation of components ([12], line 3); selecting a level of detail to be reported regarding the status of components being installed ([12], line 4); grouping each component with other components having substantially the same number of dependent components, those components having more dependencies being in a higher group and those components having fewer dependencies being in a lower group ([38], lines 5-9); generating a report regarding status installation progress of the components being installed ([12], lines 4-5); displaying that portion of the report identifying the components at the selected level of detail and their corresponding installation progress status ([12], line 5, [40], lines 1-3); and recording a user's selected preference for a level of granularity in a log, and when the user participates in a subsequent installation, using the level in the log as a default level ([42], lines 1-5).

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VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Whether claims 1-2, 4-13, 15-24, and 26-33 are unpatentable under 35 U.S.C. 103(a) as being unpatentable over Ziminewicz (United States patent 6,744,450B1) in view of Bourke-Dunphy (United States patent 6,918,112B2).

VII. ARGUMENT

A. Applicable law

It is well settled that in order to establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974); *also* M.P.E.P. § 2143.03.

B. Relationship of Claims on Appeal

Claims 1, 12, and 23 are independent claims. Each share the limitations argued below. Therefore, Claim 1 is representative of claim 12 and 23. The dependent claims stand or fall with their respective independent claims. Therefore, claims 2, 4-13, 15-24, and 26-33 stand or fall with claim 1.

C. Claim 1

Claim 1 is patentable under 35 U.S.C. 103(a) over Ziminewicz (United States patent 6,744,450B1) in view of Bourke-Dunphy (United States patent 6,918,112B2) because the examiner's cited references fail to teach or suggest all of the limitations of Claim 1.

Claim 1 recites "selecting a level of detail to be reported regarding the status of components being installed." The examiner alleges Ziminewicz discloses this limitation in "FIG. 4b, steps 140-142, 'Display Scenario Selection Screen,' 'Receive User Scenario Selection' and related text." The related text states that "if there are two or more scenarios 138, the scenario

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selection screen is displayed 140, “ “the screen displayed is the initial UI page specified in the scenario data field,” and on “this page, users can choose 142 from a number of different pre-configured setups, or select Custom Scenario to completely customize the component or suite installation.” (Zimniewicz,10:48-55). Zimniewicz is silent as to “selecting a level of detail regarding the status of components being installed” because the examiner appears to read the claims “level of detail” on to Zimniewicz’s “scenario.” Applicant respectfully disagrees. Zimniewicz teaches a “scenario” is merely the selection of components to be installed (see Zimniewicz 11:3-17) yet is silent to “a level of detail,” much less a “level of detail to be reported.”

Claim 1 also recites “grouping each component with other components having the same number of dependent components, those components having more dependencies being in a higher group and those components having fewer dependencies being in a lower group.” The examiner admitted that Zimniewicz did not disclose this limitation and cited Bourke-Dunphy 3:38-40 as disclosing this element. The examiner also stated that the cited portion “defines the interdependencies for the set of components associated with the given installation.” The examiner further cited Bourke-Dunphy. 3:42-44, and stated that “each component requires concurrent installation of all higher-level components that connect that component to the base level of the tree.” The examiner stated “it would have been obvious to one having ordinary skill in the art at the time the invention was made to group the interdependent components together for installation.” The examiner further stated the motivation to do so is “to ensure proper component dependency as suggested by Bourke-Dunphy” (citing 3: 48-49, “to ensure proper component dependency.”) The cited portion of Bourke-Dunphy does not disclose the entire claim limitation. While Bourke-Dunphy teaches dependency data organized in the form of a hierachal tree structure, Bourke-Dunphy is silent to its tree organization components.” In other

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words, even if, arguendo, Bourke-Dunphy's tree taught "grouping", Bourke-Dunphy fails to teach "groupinghaving the same number of dependent components" because Bourke-Dunphy is silent to "having the same number of dependent components."

Claim 1 recites "generating a report regarding status installation progress of the components being installed." The examiner alleges Zimniewicz discloses this limitation, and cites "Fig. 4c, step 170, "Display Programs Screen" and related text" and 11:42-43 stating "[d]uring this process, an installation-progress page is provided 170." The cited portion of Zimniewicz states "[t]his provides an indication of where in the process SIT is" (11:48-49). SIT is a Suite Integration Toolkit (6:40-41). Additional text from Zimniewicz states:

As SIT loops through pre-install components, install components, and post-install components as specified in the [Pre Install Order], [Install Order], and [Post Install Order] section of the setup data file, the description text in the header of the progress screen updates with each change in install stage. (11:42-47)

Zimniewicz does not exactly disclose the claim limitation.

Claim 1 also recites "displaying that portion of the report identifying the components at the selected level of detail and their corresponding installation progress status." The examiner cites "Fig. 4c, step 170, "Display Programs Screen" and related text, col. 11 lines 42-43, "During this process, an installation progress page is provided 170." The cited portion of Zimniewicz states "[t]his provides an indication of wherein the process SIT is." SIT is a Suite Integration Toolkit (6:40-41). Additional text from Zimniewicz states:

As SIT loops through pre-install components, install components, and post-install components as specified in the [Pre Install Order], [Install Order], and [Post Install Order] section of the setup data file, the description text in the header of the progress screen updates with each change in install stage. (11:42-47)

The examiner interprets Zimniewicz's progress screen as meeting the above limitation, but Zimniewicz is silent to its program screen "identifying components at the selected level of detail and their corresponding installation progress status." Zimniewicz merely teaches its

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progress screen “provides an indication of where in the process SIT is,” i.e., an indication of where the installation process is.

Claim 1 also recites “recording a user’s selected preference for a level of granularity in a log, and when the user participates in a subsequent installation, using the level in the log as a default level.” The examiner cites col 6: lines 34-49, “setup database file (setup.sdb)” related text, Fig. 4a-4B steps 138, 140, 144, and related text. Zimniewicz, 6:34-49 discloses a “setup database file (setup.sdb)” and the examiner stated that it “can be used to save configuration information.” The examiner further referenced Zimniewicz, 7:27-29 quoting “[t]he UI Manager 91 may also display any customized pages identified in the setup.sdb file during the installation and setup of the suite.” The examiner further stated: “[t]hus, it is clear that the customized page (user’s selected preference) can be logged (setup.sdb) and used during installation. The examiner asserted that therefore, Zimniewicz, discloses the feature “user preference log.” But the preference at issue is for the level of detail in reporting the status of the installation, not the installation itself. The examiner interprets Zimniewicz’s “setup.sdf” as meeting the claim’s “level of granularity in a log.” However, Zimniewicz’s setup.db merely identifies actions to be performed, yet is silent to a “level of granularity” within its “setup.sdb.”

In regard to the two portion of Zimniewicz cited by the examiner, neither disclose the limitations because they describe installation of software, and do not describe reporting on the installation of software.

The examiner cited Zimniewicz 6:34-49 which states the following:

In accordance with the invention, a system and method are presented that allows the addition and customization of install actions definable by application components to be installed. Further, a new user interface (UI) is presented that allows a logical and easily understandable presentation of the current state and defined actions available and selected for an installation application. This system is embodied in a Suite Integration Toolkit (SIT) and utilizes a common architecture used for a setup database file (setup.sdf) to identify components and their available actions to be

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performed during the installation and setup thereof. SIT complements, but does not replace, existing installer technology. SIT works as an integration layer for disparate setups but does not perform core setup tasks such as file copy, registry operations, etc., although it may be expanded to do so. (6:34-49)

This portion of the reference deals with installation and not with reporting on the installation.

The examiner also cited Zimniewicz 7:27-29 which states the following:

The UI Manager 91 may also display any customized pages identified in the setup.sdb file during the installation and setup of the suite. During this installation and setup, the SIT may utilize a Scenario Factory 95 to install only selected application programs or components from the suite as selected by a user or as pre-configured by the suite owner. (7:27-29)

The second portion of Zimniewicz deals with scenarios for installation, and not for reporting on the installation.

Moreover, the examiner did not address the entire limitation. Applicant's limitation requires that the log (1) contain a "user's selected preference for a level of granularity," and (2) the level of granularity preferred by the user would be used as a default level if the user "participates in a subsequent installation." The examiner appears to equate the setup.sdb file with a "user preference log." But the claim limitation is directed to a preference for a level of detail in reporting on the installation of the software (in conjunction with other elements of the claim).

Thus, the cited art fails to teach each and every limitation of the claim. Therefore, applicant respectfully requests that the rejection be reversed.

C. Claims 2, 4-13, 15-24, and 26-33

Claims 1, 12, and 23 are independent claims. Each share the limitations argued above. Therefore, Claim 1 is representative of claim 12 and 23. Claims 12 and 23 stand or fall with claim 1. Therefore, claims 2, 4-13, 15-24, and 26-33 also stand or fall with claim 1. The dependent claims stand or fall with their respective independent claims, claims 1, 12, or 23. As

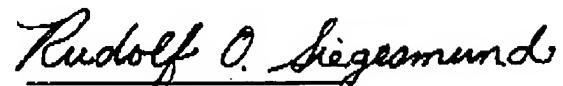
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discussed above, claims 1, 12, and 23 contain limitations that are not taught or suggested by the cited art. Therefore, applicant respectfully requests that the rejection be reversed.

Respectfully submitted,



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VIII. CLAIMS APPENDIX

1. A method for installing software components, comprising:

initiating installation of components;

selecting a level of detail to be reported regarding the status of components being installed;

grouping each component with other components having the same number of dependent components, those components having more dependencies being in a higher group and those components having fewer dependencies being in a lower group;

generating a report regarding status installation progress of the components being installed;

displaying that portion of the report identifying the components at the selected level of detail and their corresponding installation progress status; and

recording a user's selected preference for a level of granularity in a log, and when the user participates in a subsequent installation, using the level in the log as a default level.

2. The method of claim 1, further comprising accessing a semantic model, the semantic model comprising an indication of a dependency of a component to be installed upon any other component.

3. Canceled.

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4. The method of claim 1, wherein:

each grouping corresponds to a selectable level of detail; and

displaying the portion of the report comprises displaying the components in the group corresponding to the selected level of detail and the components in groups higher than the group corresponding to the selected level of detail.

5. The method of claim 1, wherein generating the report comprises generating a tree-like structure having at a highest level branch those components to be installed with the greatest number of dependent components and having at a lowest level branch those components to be installed with the fewest number of dependent components.

6. The method of claim 5, wherein displaying the portion of the report comprises displaying the branches of the tree-like structure corresponding to the selected level of detail and those branches having a higher level.

7. The method of claim 1, wherein selecting a level of detail comprises accessing a log file for a user, the log file including a user-selected detail level preference.

8. The method of claim 1, wherein selecting a level of detail comprises accessing a log file for a user, the log file including a detail level generated from past selections by the user.

9. The method of claim 1, wherein displaying the status of installation progress comprises displaying each of a plurality of status characteristics with a different visual indicator.

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10. The method of claim 9, wherein the different visual indicators comprise different colors.

11. The method of claim 9, wherein the status characteristics are selected from the group comprising pending, in progress, successfully completed and error.

12. A software component installation system, comprising:

means for initiating installation of components;

means for selecting a level of detail to be reported regarding the status of components being installed;

means for grouping each component with other components having substantially the same number of dependent components, those components having more dependencies being in a higher group and those components having fewer dependencies being in a lower group;

means for generating a report regarding status installation progress of the components being installed;

means for displaying that portion of the report identifying the components at the selected level of detail and their corresponding installation progress status; and

means for recording a user's selected preference for a level of granularity in a log, and when the user participates in a subsequent installation, using the level in the log as a default level.

13. The system of claim 12, further means for comprising accessing a semantic model, the semantic model comprising an indication of a dependency of a component to be installed upon any other component.

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14. Canceled.

15. The system of claim 12, wherein:

each grouping corresponds to a selectable level of detail; and
the means for displaying the portion of the report comprises means for displaying
the components in the group corresponding to the selected level of detail and the
components in groups higher than the group corresponding to the selected level of detail.

16. The system of claim 12, wherein the means for generating the report comprises means for
generating a tree-like structure having at a highest level branch those components to be installed
with the greatest number of dependent components and having at a lowest level branch those
components to be installed with the fewest number of dependent components.

17. The system of claim 16, wherein the means for displaying the portion of the report comprises
means for displaying the branches of the tree-like structure corresponding to the selected level of
detail and those branches having a higher level.

18. The system of claim 12, wherein the means for selecting a level of detail comprises means
for accessing a log file for a user, the log file including a user-selected detail level preference.

19. The system of claim 12, wherein selecting the means for a level of detail comprises means
for accessing a log file for a user, the log file including a detail level generated from past
selections by the user.

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20. The system of claim 12, wherein the means for displaying the status of installation progress comprises means for displaying each of a plurality of status characteristics with a different visual indicator.
21. The system of claim 20, wherein the different visual indicators comprise different colors.
22. The system of claim 20, wherein the status characteristics are selected from the group comprising pending, in progress, successfully completed and error.
23. A computer program product of a computer readable medium usable with a programmable computer, the computer program product having computer-readable code embodied therein for installing software components, the computer-readable code comprising instructions for:
 - initiating installation of components;
 - selecting a level of detail to be reported regarding the status of components being installed;
 - grouping each component with other components having substantially the same number of dependent components, those components having more dependencies being in a higher group and those components having fewer dependencies being in a lower group;
 - generating a report regarding status installation progress of the components being installed;
 - displaying that portion of the report identifying the components at the selected level of detail and their corresponding installation progress status; and

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recording a user's selected preference for a level of granularity in a log, and when the user participates in a subsequent installation, using the level in the log as a default level.

24. The computer program product of claim 23, further comprising instructions for accessing a semantic model, the semantic model comprising an indication of a dependency of a component to be installed upon any other component.

25. Canceled.

26. The computer program product of claim 23, wherein:

each grouping corresponds to a selectable level of detail; and
the instructions for displaying the portion of the report comprise instructions for displaying the components in the group corresponding to the selected level of detail and the components in groups higher than the group corresponding to the selected level of detail.

27. The computer program product of claim 23, wherein the instructions for generating the report comprise instructions for generating a tree-like structure having at a highest level branch those components to be installed with the greatest number of dependent components and having at a lowest level branch those components to be installed with the fewest number of dependent components.

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28. The computer program product of claim 27, wherein the instructions for displaying the portion of the report comprise instructions for displaying the branches of the tree-like structure corresponding to the selected level of detail and those branches having a higher level.

29. The computer program product of claim 23, wherein selecting a level of detail comprises accessing a log file for a user, the log file including a user-selected detail level preference.

30. The computer program product of claim 23, wherein selecting a level of detail comprises accessing a log file for a user, the log file including a detail level generated from past selections by the user.

31. The computer program product of claim 23, wherein the instructions for displaying the status of installation progress comprise instructions for displaying each of a plurality of status characteristics with a different visual indicator.

32. The computer program product of claim 31, wherein the different visual indicators comprise different colors.

33. The computer program product of claim 31, wherein the status characteristics are selected from the group comprising pending, in progress, successfully completed and error.

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IX. EVIDENCE APPENDIX

NONE

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X. RELATED PROCEEDINGS APPENDIX

NONE